

Conference Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 338

HOUSE BILL 2300

AN ACT

AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 50, SECTION 2; AMENDING SECTIONS 42-5160 AND 42-5161, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5167; RELATING TO USE TAX PAYMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-2003, Arizona Revised Statutes, as amended by
3 Laws 2002, chapter 50, section 2, is amended to read:

4 42-2003. Authorized disclosure of confidential information

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in
7 interest or a designee of the taxpayer who is authorized in writing by the
8 taxpayer. A principal corporate officer of a parent corporation may execute
9 a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer, any
11 person designated by a principal officer or any person designated in a
12 resolution by the corporate board of directors or other similar governing
13 body.

14 3. A partnership may be disclosed to any partner of the partnership.
15 This exception does not include disclosure of confidential information of a
16 particular partner unless otherwise authorized.

17 4. An estate may be disclosed to the personal representative of the
18 estate and to any heir, next of kin or beneficiary under the will of the
19 decedent if the department finds that the heir, next of kin or beneficiary
20 has a material interest which will be affected by the confidential
21 information.

22 5. A trust may be disclosed to the trustee or trustees, jointly or
23 separately, and to the grantor or any beneficiary of the trust if the
24 department finds that the grantor or beneficiary has a material interest
25 which will be affected by the confidential information.

26 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
27 to confidentiality either in writing or on the record in any administrative
28 or judicial proceeding.

29 7. Claimant may be disclosed to the claimant, its successor in interest
30 or a designee of the claimant pursuant to written authorization by the
31 claimant.

32 8. THE NAME AND TAXPAYER IDENTIFICATION NUMBERS OF PERSONS ISSUED
33 DIRECT PAYMENT PERMITS MAY BE PUBLICLY DISCLOSED.

34 B. Confidential information may be disclosed to:

35 1. Any employee of the department whose official duties involve tax
36 or unclaimed property administration.

37 2. The office of the attorney general solely for its use in
38 preparation for, or in an investigation which may result in, any proceeding
39 involving tax or unclaimed property administration before the department or
40 any other agency or board of this state, or before any grand jury or any
41 state or federal court.

42 3. The department of liquor licenses and control for its use in
43 determining whether a spirituous liquor licensee has paid all transaction
44 privilege taxes and affiliated excise taxes incurred as a result of the sale

1 of spirituous liquor at the licensed establishment and imposed on the
2 licensed establishments by this state and its political subdivisions.

3 4. Other state tax or unclaimed property officials of this state whose
4 official duties require the disclosure for proper tax or unclaimed property
5 administration purposes if the information is sought in connection with an
6 investigation or any other proceeding conducted by the official. Any
7 disclosure is limited to information of a taxpayer or claimant who is being
8 investigated or who is a party to a proceeding conducted by the official.

9 5. The following agencies, officials and organizations, if they grant
10 substantially similar privileges to the department for the type of
11 information being sought, pursuant to statute and a written agreement between
12 the department and the foreign country, agency, state, Indian tribe or
13 organization:

14 (a) The United States internal revenue service, United States bureau
15 of alcohol, tobacco and firearms, United States drug enforcement agency and
16 federal bureau of investigation.

17 (b) A state tax or unclaimed property official of another state.

18 (c) An organization of states that operates an information exchange
19 for tax administration purposes.

20 (d) An agency, official or organization of a foreign country with
21 responsibilities that are comparable to those listed in subdivision (a), (b)
22 or (c) of this paragraph.

23 (e) An agency, official or organization of an Indian tribal government
24 with responsibilities comparable to the responsibilities of the agencies,
25 officials or organizations identified in subdivision (a), (b) or (c) of this
26 paragraph.

27 6. The auditor general, in connection with any audit of the department
28 subject to the restrictions in section 42-2002, subsection C.

29 7. Any person to the extent necessary for effective tax or unclaimed
30 property administration in connection with:

31 (a) The processing, storage, transmission, destruction and
32 reproduction of the information.

33 (b) The programming, maintenance, repair, testing and procurement of
34 equipment for purposes of tax administration.

35 8. The office of administrative hearings relating to taxes
36 administered by the department pursuant to section 42-1101, but the
37 department shall not disclose any confidential information:

38 (a) Regarding income tax, withholding tax or estate tax.

39 (b) On any tax issue relating to information associated with the
40 reporting of income tax, withholding tax or estate tax.

41 9. The United States treasury inspector general for tax administration
42 for the purpose of reporting a violation of internal revenue code section
43 7213A (26 United States Code section 7213A), unauthorized inspection of
44 returns or return information.

1 10. The financial management service of the United States treasury
2 department for use in the treasury offset program.

3 C. Confidential information may be disclosed in any state or federal
4 judicial or administrative proceeding pertaining to tax or unclaimed property
5 administration if the taxpayer or claimant is a party to the proceeding.

6 D. Identity information may be disclosed for purposes of notifying:
7 1. Persons entitled to tax refunds if the department is unable to
8 locate the persons after reasonable effort.

9 2. Owners of unclaimed property pursuant to section 44-309.

10 E. The department, upon the request of any person, shall provide the
11 names and addresses of bingo licensees as defined in section 5-401 or verify
12 whether or not a person has a privilege license and number or withholding
13 license and number.

14 F. A department employee, in connection with the official duties
15 relating to any audit, collection activity or civil or criminal
16 investigation, may disclose return information to the extent that disclosure
17 is necessary to obtain information which is not otherwise reasonably
18 available. These official duties include the correct determination of and
19 liability for tax, the amount to be collected or the enforcement of other
20 state tax revenue laws.

21 G. If an organization is exempt from this state's income tax as
22 provided in section 43-1201 for any taxable year, the name and address of the
23 organization and the application filed by the organization upon which the
24 department made its determination for exemption together with any papers
25 submitted in support of the application and any letter or document issued by
26 the department concerning the application are open to public inspection.

27 H. Confidential information relating to transaction privilege tax, use
28 tax and rental occupancy tax may be disclosed to any county, city or town tax
29 official if the information relates to a taxpayer who is or may be taxable
30 by the county, city or town. Any taxpayer information released by the
31 department to the county, city or town:

32 1. May only be used for internal purposes.

33 2. May not be disclosed to the public in any manner that does not
34 comply with confidentiality standards established by the department. The
35 county, city or town shall agree in writing with the department that any
36 release of confidential information that violates the confidentiality
37 standards adopted by the department will result in the immediate suspension
38 of any rights of the county, city or town to receive taxpayer information
39 under this subsection.

40 I. The department may disclose statistical information gathered from
41 confidential information if it does not disclose confidential information
42 attributable to any one taxpayer or claimant of unclaimed property. In order
43 to comply with the requirements of section 42-5029, subsection A,
44 paragraph 3, the department may disclose to the state treasurer statistical

1 information gathered from confidential information, even if it discloses
2 confidential information attributable to a taxpayer.

3 J. The department may disclose the aggregate amounts of any tax
4 credit, tax deduction or tax exemption enacted after January 1, 1994.
5 Information subject to disclosure under this subsection shall not be
6 disclosed if a taxpayer demonstrates to the department that such information
7 would give an unfair advantage to competitors.

8 K. Except as provided in section 42-2002, subsection B, confidential
9 information, described in section 42-2001, paragraph 3, subdivision (a), item
10 (iii), may be disclosed to law enforcement agencies for law enforcement
11 purposes.

12 L. The department may provide transaction privilege tax license
13 information to property tax officials in a county for the purpose of
14 identification and verification of the tax status of commercial property.

15 M. The department may provide transaction privilege tax, luxury tax,
16 use tax, property tax and severance tax information to the ombudsman-citizens
17 aide pursuant to title 41, chapter 8, article 5.

18 N. Except as provided in section 42-2002, subsection C, a court may
19 order the department to disclose confidential information pertaining to a
20 party to an action. An order shall be made only upon a showing of good cause
21 and that the party seeking the information has made demand upon the taxpayer
22 or claimant for the information.

23 O. This section does not prohibit the disclosure by the department of
24 any information or documents submitted to the department by a bingo licensee.
25 Before disclosing the information the department shall obtain the name and
26 address of the person requesting the information.

27 P. If the department is required or permitted to disclose confidential
28 information, it may charge the person or agency requesting the information
29 for the reasonable cost of its services.

30 Q. Except as provided in section 42-2002, subsection C, the department
31 of revenue shall release confidential information as requested by the
32 department of economic security pursuant to section 42-1122 or 46-291.
33 Information disclosed under this subsection is limited to the same type of
34 information that the United States internal revenue service is authorized to
35 disclose under section 6103(1)(6) of the internal revenue code.

36 R. To comply with the requirements of section 42-5031, the department
37 may disclose to the state treasurer, to the county stadium district board of
38 directors and to any city or town tax official that is part of the county
39 stadium district confidential information attributable to a taxpayer's
40 business activity conducted in the county stadium district.

41 S. The department shall release confidential information as requested
42 by the attorney general for purposes of determining compliance with and
43 enforcing section 44-7101, the master settlement agreement referred to
44 therein and subsequent agreements to which the state is a party that amend
45 or implement the master settlement agreement. Information disclosed under

1 this subsection is limited to luxury tax information relating to tobacco
2 manufacturers, distributors, wholesalers and retailers and information
3 collected by the department pursuant to section 44-7101(2)(j).

4 Sec. 2. Section 42-5160, Arizona Revised Statutes, is amended to read:

5 42-5160. Liability for tax

6 Any person who uses, stores or consumes any tangible personal property
7 upon which a tax is imposed by this article and upon which the tax has not
8 been collected by a registered retailer OR UTILITY BUSINESS shall pay the tax
9 as provided by this article, but every retailer AND UTILITY BUSINESS
10 maintaining a place of business in this state and making sales of tangible
11 personal property for storage, use or other consumption in this state, ~~unless~~
12 ~~exempt by the provisions of this article, shall at the time of making the~~
13 ~~sales~~ SHALL collect the tax from the purchaser or user UNLESS THE PROPERTY
14 IS EXEMPT UNDER THIS ARTICLE OR THE PURCHASER OR USER PAYS THE TAX DIRECTLY
15 TO THE DEPARTMENT AS PROVIDED BY SECTION 42-5167.

16 Sec. 3. Section 42-5161, Arizona Revised Statutes, is amended to read:

17 42-5161. Collection from purchaser; receipt; tax as debt to
18 state

19 EXCEPT AS PROVIDED BY SECTION 42-5167, every retailer and utility
20 business shall collect from the purchaser the tax imposed by this article and
21 give to such purchaser a receipt therefor FOR THE TAX in the manner and form
22 prescribed by the department. The tax required to be collected shall be
23 shown separately on the invoice or other proof of sale. The tax required to
24 be collected shall constitute a debt owed by the retailer and OR utility
25 business to this state.

26 Sec. 4. Title 42, chapter 5, article 4, Arizona Revised Statutes, is
27 amended by adding section 42-5167, to read:

28 42-5167. Use tax direct payment permit

29 A. A PERSON MAY ELECT TO PAY USE TAXES DIRECTLY TO THE DEPARTMENT
30 UNDER THIS ARTICLE IF THE PERSON:

31 1. APPLIES TO THE DEPARTMENT FOR A USE TAX DIRECT PAYMENT PERMIT. THE
32 APPLICATION MUST BE ON A FORM PRESCRIBED BY THE DEPARTMENT SETTING FORTH THE
33 NAME UNDER WHICH THE APPLICANT TRANSACTS OR INTENDS TO TRANSACT BUSINESS, THE
34 LOCATION OF THE PLACE OR PLACES OF BUSINESS WHERE THE APPLICANT INTENDS TO
35 MAKE DIRECT PAYMENT OF USE TAXES AND ANY OTHER INFORMATION THAT THE
36 DEPARTMENT MAY REQUIRE. THE APPLICATION MUST BE SIGNED, IN THE CASE OF:

37 (a) A NATURAL PERSON, BY THE OWNER.

38 (b) AN ASSOCIATION OR PARTNERSHIP, BY A MEMBER OR PARTNER.

39 (c) A CORPORATION, BY AN EXECUTIVE OFFICER OR ANOTHER PERSON
40 SPECIFICALLY AUTHORIZED BY THE CORPORATION TO SIGN THE APPLICATION.

41 2. AGREES TO SELF-ASSESS AND PAY DIRECTLY TO THE DEPARTMENT ANY USE
42 TAX LIABILITY INCURRED UNDER THIS ARTICLE.

1 3. CERTIFIES TO THE DEPARTMENT THAT THE PERSON PURCHASED FOR THE
2 PERSON'S OWN USE TANGIBLE PERSONAL PROPERTY AT A COST OF FIVE HUNDRED
3 THOUSAND DOLLARS OR MORE, IN THE AGGREGATE, DURING THE IMMEDIATELY PRECEDING
4 CALENDAR YEAR.

5 B. THE DEPARTMENT SHALL ISSUE A USE TAX DIRECT PAYMENT PERMIT TO ANY
6 APPLICANT THAT MEETS THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION.

7 C. IF THE DEPARTMENT DEEMS IT NECESSARY TO PROTECT THE REVENUES TO BE
8 COLLECTED UNDER THIS SECTION, IT MAY REQUIRE A PERSON TO FILE A BOND TO
9 SECURE THE PAYMENT OF SUCH AMOUNTS PURSUANT TO SECTION 42-1102.

10 D. A PERSON WHO HOLDS A VALID USE TAX DIRECT PAYMENT PERMIT SHALL:

11 1. SELF-ASSESS AND PAY DIRECTLY TO THE DEPARTMENT USE TAXES DUE UNDER
12 THIS ARTICLE FOR ALL TANGIBLE PERSONAL PROPERTY SUBJECT TO USE TAX.

13 2. REPORT THE TAX ON A TAX RETURN PRESCRIBED BY THE DEPARTMENT.

14 E. A HOLDER OF A USE TAX DIRECT PAYMENT CERTIFICATE MAY ISSUE A USE
15 TAX DIRECT PAYMENT CERTIFICATE TO ANY RETAILER OR SELLER, SUBJECT TO ALL OF
16 THE FOLLOWING:

17 1. THE CERTIFICATE SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT AND
18 MUST BE SIGNED BY AND BEAR THE NAME, ADDRESS AND PERMIT NUMBER OF THE HOLDER
19 OF THE USE TAX DIRECT PAYMENT PERMIT.

20 2. THE CERTIFICATE IS EFFECTIVE UNTIL THE PERMIT HOLDER REVISES OR
21 WITHDRAWS THE CERTIFICATE OR UNTIL THE RETAILER OR SELLER RECEIVES ACTUAL
22 NOTICE THAT THE DEPARTMENT HAS REVOKED THE PERMIT.

23 3. THE CERTIFICATE RELIEVES THE RETAILER OR SELLER OF THE DUTY TO
24 COLLECT USE TAX ONLY IF TAKEN IN GOOD FAITH FROM A PERSON WHO HOLDS A USE TAX
25 DIRECT PAYMENT PERMIT. THE DEPARTMENT MAY PERIODICALLY PUBLISH ON ITS
26 WEBSITE A LIST OF TAXPAYERS BY NAME WITH TAX IDENTIFICATION NUMBERS WHO HAVE
27 BEEN ISSUED DIRECT PAYMENT PERMITS. A PURCHASER HOLDING A DIRECT PAYMENT
28 PERMIT WHO ISSUES A USE TAX DIRECT PAYMENT CERTIFICATE THAT IS ACCEPTED IN
29 GOOD FAITH BY A RETAILER OR SELLER OF TANGIBLE PERSONAL PROPERTY SHALL BE
30 LIABLE FOR USE TAX AND RELATED INTEREST AND PENALTIES WITH RESPECT TO ANY
31 TRANSACTION THAT THE DEPARTMENT SUBSEQUENTLY DETERMINES PROPERLY SUBJECTS THE
32 VENDOR TO THE TRANSACTION PRIVILEGE TAX AND NOT USE TAX. THE VENDOR SHALL
33 BE RELIEVED OF THE DUTY TO PAY TRANSACTION PRIVILEGE TAX ON SUCH
34 TRANSACTIONS.

35 4. IN ADDITION TO ANY USE TAX LIABILITIES, A HOLDER OF A USE TAX
36 DIRECT PAYMENT PERMIT THAT GIVES A USE TAX DIRECT PAYMENT CERTIFICATE TO A
37 RETAILER OR SELLER IS SUBJECT TO THE SAME PENALTY PROVISIONS THAT APPLY TO
38 A RETAILER OR SELLER.

39 Sec. 5. Effective date

40 This act is effective and applies to taxable periods beginning from and
41 after December 31, 2002.

APPROVED BY THE GOVERNOR JUNE 4, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 4, 2002.

Passed the House April 4, 2002,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate April 25, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2300

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 21, 2002,

by the following vote: 47 Ayes,

0 Nays, 13 Not Voting

Jake Flake
Speaker of the House
Pro Tempore

Sproman L. Fyfe
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 22, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Karen A. Spant
President of the Senate

Chapman Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 23 day of May, 2002,

at 9:00 o'clock A M.

Sandra Ramirez
Secretary to the Governor

Approved this 4th day of

June, 2002,

at 10:17 o'clock A M.

James Michael Hull
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of June, 2002,

at 5:31 o'clock P M.

Robert Taylor
Secretary of State

H.B. 2300